

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**In re:** §  
§  
**COINTERRA, INC.,** § **Case No. 15-10109-HCM-7**  
§  
**Debtor.** §

**MOTION TO ABATE HEARING ON  
FORTIS BENEFITS' MOTION FOR RELIEF FROM AUTOMATIC STAY**

TO THE HONORABLE H. CHRISTOPHER MOTT, UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, Fortis Benefits, LLC, as Collateral Agent (“**Collateral Agent**”) and files this *Motion to Abate and Hearing on Fortis Benefits’ Motion for Relief From Automatic Stay* (the “**Motion**”) and in support thereof, would respectfully show as follows:

**Jurisdiction**

1. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1334 and 157. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for relief are 11 U.S.C. § 362 and this Court’s ability to control its docket.

**Background**

2. On January 24, 2015 (“**Petition Date**”), Debtor filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code.

3. The Collateral Agent, on March 19, 2015, filed a *Motion for Relief from the Automatic Stay* [DKT #28] (the “**CA MLS**”) to enable it to proceed to foreclose on its asserted collateral as to its proof of claim filed on March 18, 2015 as Claim #44.

4. Objections to the CA MLS were filed by OSI [DKT # 38] and by C7 [DKT # 39].

Prior to the then set final hearing on the CA MLS, the Trustee, OSI and C7 agreed to a partial lifting of the automatic stay to address the liquidation of the equipment and other items at the Debtor's office location in Austin, Texas and how to hold the net proceeds after expenses of sale and the Bankruptcy Court entered an order approving that partial lifting of the automatic stay by agreement [DKT #44]. That online auction has been completed and accounting of the sales proceeds was just received and communicated per that Order.

5. Additionally, at a status conference set by the Court on April 10, 2015 at 9:30 a.m. this Court, after hearing from the parties, entered the *Order Regarding Status Hearing on Motion for Relief from Stay Filed by Fortis Advisors LLC* [DKT #50] ("Status Order") which set briefing deadlines for the CA and OSI/C7/Trustee that could be extended per the Status Order, as well as a hearing date on the CA MLS.

6. On April 28, 2015, the parties filed an *Agreed Motion to Abate Briefing Schedule and Hearing on Fortis Benefits' Motion for Relief from Automatic Stay* [Dkt. #55] and the *Order Granting Agreed Motion to Abate Briefing Schedule and Hearing on Fortis Benefits' Motion for Relief from Automatic Stay* [Dkt. #56] was entered herein in April 29, 2015.

7. The Collateral Agent now seeks an indefinite abatement of the hearing on the CA MLS currently set for May 20, 2015, at 9:30 a.m., since various of the parties have reached an agreement in principal to resolve the CA MLS and anticipate filing a motion pursuant to FRBP Rule 9019 seeking court approval of same in the next few days.

8. The Cointerra Trustee has indicated that he is fine with an abatement of the hearing. While no word has come from OSI or C7, it is the Collateral Agent's presumption that abatement will not be opposed.

WHEREFORE, PREMISES CONSIDERED, the Collateral Agent prays that the hearing on the CA MLS set for May 20, 2015, at 9:30 a.m., be abated indefinitely to be reset only upon specific request by the Collateral Agent; and for such other and further relief as this Court may deem just and proper.

Respectfully submitted,

**WRIGHT GINSBERG BRUSILOW P.C.**

By: /s/ E. P. Keiffer  
E. P. Keiffer (SBTN 11181700)  
325 North St. Paul St., Suite 4150  
Dallas, Texas 75201  
Telephone: (214) 651-6500  
Facsimile: (214) 744-2615  
Email: [pkeiffer@wgblawfirm.com](mailto:pkeiffer@wgblawfirm.com)

**ATTORNEYS FOR FORTIS ADVISORS LLC,  
COLLATERAL AGENT**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 18th day of May, 2015, a true and correct copy of the foregoing *Motion to Abate and Hearing on Fortis Benefits' Motion for Relief From Automatic Stay* was served the Court's ECF noticing system or via U.S. Mail postage prepaid on the parties set forth in the service list attached hereto.

/s/ E. P. Keiffer  
E. P. Keiffer

## Service List

Cointerra, Inc.  
11130 Jollyville Road, Suite 303  
Austin, Texas 78759  
DEBTOR

Lynn Saarinen  
Barron & Newburger, P.C.  
1212 Guadalupe, Suite 104  
Austin, Texas 78701

Randolph N. Osherow  
Chapter 7 Trustee  
342 West Woodlawn, Suite 100  
San Antonio, Texas 78212

Steve Turner  
Barrett Daffin Frappier  
Turner & Engel, LLP  
610 West 5th Street, Suite 602  
Austin, Texas 78701  
ATTORNEYS FOR  
RANDOLPH N. OSHEROW,  
CHAPTER 7 TRUSTEE

Timothy A. Davidson  
Andrews & Kurth, LLP  
600 Travis, Suite 4200  
Houston, Texas 77002  
ATTORNEYS FOR DEBTOR

Automated Circuit Design  
1250 American Parkway  
Richardson, Texas 75081

Office of the U. S. Trustee  
903 San Jacinto Boulevard, Room 230  
Austin, Texas 78701